

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

**OWAIIAN M. JONES,
Plaintiff,**

Civil Action No. 7:14-cv-00416

v.

ORDER

THE SUPREME COURT OF VIRIGNIA, et al.,

Defendant(s).

**By: Hon. Robert S. Ballou
United States Magistrate Judge**

Plaintiff filed a civil rights action pursuant to 28 U.S.C. §1651 Writ of Mandamus. As plaintiff has not prepaid the filing fee, the court shall consider plaintiff's eligibility to proceed in forma pauperis. Inasmuch as the complaint and attachments do not conform to all requirements for in forma pauperis prisoner civil rights actions as promulgated under 28 U.S.C. § 1915(a), it is now

ORDERED

as follows:

- (1) The complaint shall be conditionally filed pending satisfaction of the requirements set forth herein. Plaintiff is advised that the court will not adjudicate legal and factual matters discussed in either a pleading or motion in this conditionally filed action until plaintiff cures the deficiencies noted in this Order. Accordingly, plaintiff is encouraged to first resolve the noted deficiencies before filing motions or pleadings.
- (2) Plaintiff is assessed fees of \$400.00 in this case, which includes a \$50.00 administrative fee.
- (3) Plaintiff is hereby **GRANTED** the opportunity to proceed *in forma pauperis* and is not required to pay the filing fee at this time. If the court determines that the plaintiff may proceed *in forma pauperis*, plaintiff will be required to pay the \$350.00 filing fee, but not

the additional \$50.00 administrative fee; and may pay the fee in installments withheld from his inmate trust account, pursuant to 28 U.S.C. § 1915(b). To request authorization to pay the fee in installments withheld from his inmate trust account, pursuant to the requirements of 28 U.S.C. § 1915(a)(2), plaintiff must return to the court a statement of assets, an inmate account form, and a certified copy of plaintiff's trust fund account statement for the six-month period immediately preceding the filing of the complaint, obtained from the appropriate prison official of each prison at which plaintiff is or was confined during that six-month period. See enclosed forms. FAILURE OF THE PLAINTIFF TO SUBMIT THE REQUESTED INFORMATION WITHIN TEN (10) DAYS SHALL RESULT IN DISMISSAL OF THIS ACTION WITHOUT PREJUDICE.

This Order may be rescinded if the court determines that plaintiff has had three prior cases dismissed as frivolous, malicious, or for failure to state a claim, pursuant to 28 U.S.C. § 1915(g). Plaintiff is notified that if he does not qualify to proceed without prepayment of the filing fee under § 1915(a)(2), he will be required submit the full \$350.00 filing fee and as of May 1, 2013, a \$50.00 administrative fee before his civil action can proceed. **Never use tape on any pleading sent to the Court.**

- (4) Pursuant to 42 U.S.C. § 1997e(a), plaintiff may not institute a civil rights action about prison conditions until plaintiff has exhausted administrative remedies available at the respective jail, prison, or other correctional facility. Accordingly, plaintiff must (a) execute and submit the enclosed Verified Statement form and (b) submit accompanying documentation demonstrating that plaintiff has either exhausted the available remedies **as to each of the claims raised in the complaint**¹, or plaintiff must document that such remedies do not exist at the present place of confinement or are not available to plaintiff

¹ Plaintiff does not need to file more copies of grievances already filed with the court.

at the present time. FAILURE OF THE PLAINTIFF TO SUBMIT THE REQUESTED DOCUMENTATION WITHIN TEN (10) DAYS SHALL RESULT IN DISMISSAL OF PART OR ALL OF THIS ACTION WITHOUT PREJUDICE. If plaintiff has not completed exhaustion of all administrative remedies available, plaintiff may request voluntary dismissal or wait for automatic dismissal at the end of ten (10) days. Plaintiff may then refile the case if exhaustion is not successful, subject to the applicable statute of limitations.

- (5) Plaintiff is advised that a prisoner may not bring a civil action without complete prepayment of the appropriate filing fee and, as of May 1, 2013, a \$50.00 administrative fee if the prisoner has brought on three or more occasions, an action or appeal in a federal court that was dismissed as frivolous, as malicious, or for failure to state a claim upon which relief may be granted, unless the prisoner is in imminent danger of serious physical injury. See 28 U.S.C. § 1915(g). Plaintiff is advised that if plaintiff has had prior cases dismissed for any of the above-stated reasons, these prior dismissals may limit plaintiff's ability to file new cases without prepaying the full \$400.00 in filing costs. If plaintiff believes that this case, or any other pending case, may be dismissed as frivolous, as malicious, or for failure to state a claim upon which relief may be granted, plaintiff may file a motion for voluntary dismissal of such case(s) pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.
- (6) Plaintiff shall notify the court in writing immediately upon plaintiff's transfer or release and shall provide a new address. FAILURE TO NOTIFY THE COURT OF SUCH A CHANGE OF ADDRESS WILL RESULT IN DISMISSAL OF THIS CASE.
- (7) Pursuant to a Standing Order of Court, all non-dispositive matters in this case will be referred to a United States Magistrate Judge.

(8) Plaintiff must include the above referenced case number in any document that plaintiff submits to the court related to this action. Plaintiff's submissions should be legible, written on one side of the paper only, with at least one-inch of clear space on all sides of the page. In any document plaintiff submits to the court, pursuant to General Rule 8 of the Local Rules of the United States District Court for the Western District of Virginia, plaintiff must omit, black out, or abbreviate personal data identifiers as follows: social security numbers (use only the last four digits), names of minor children (use initials), dates of birth (list only the birth year), financial account numbers (list only the last four digits), and home addresses (list only city and state). Submissions that do not comply with this paragraph may be returned to plaintiff without being entered by the court. The Clerk is directed to send a copy of this Order to plaintiff. All mailed pleadings should be sent to: Clerk, U.S. District Court, 210 Franklin Road, S.W., Suite 540, Roanoke, VA 24011-2208.

ENTER: This 7th day of August, 2014.

s/ Robert S. Ballou

United States Magistrate Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

OWAIIAN M. JONES

v.

Civil Action No. 7:14-cv-00416

THE SUPREME COURT OF VIRGINIA, et al.,
INMATE ACCOUNT REPORT
OWAIIAN M. JONES

DATE OF INQUIRY

Balance at time of inquiry

Current rate of pay

Total Deposits for six months prior to AUGUST, 2014

**THIS FORM TO BE
COMPLETED BY TRUST
ACCOUNT OFFICER
AND THEN RETURNED
TO INMATE**

Plaintiff: Have you been at this location for the entire requested six-month period? Yes _____ or No _____

If the answer is NO, you are required to obtain and submit that information from the other location(s) within the required time. You will have to make a copy of this form and send it to the location(s) to be certified by that Trust Account Officer.

Account Balance on Last Day of Month
for six months prior to AUGUST, 2014

Month	Amount
FEB	_____
MARCH	_____
APRIL	_____
MAY	_____
JUNE	_____
JULY	_____

Month	Amount
FEB	_____
MARCH	_____
APRIL	_____
MAY	_____
JUNE	_____
JULY	_____

AVERAGE MONTHLY BALANCE

(To be signed & completed by Trust Account Officer and then returned by the plaintiff)

I have attached certified copies of the inmate's trust fund account statement, and maintain said records in the regular and ordinary course of business. PLAINTIFF must return this signed form AND the six month-statements together from each prison which plaintiff is or was confined during that six-month period.

DATED: _____

TRUST OFFICER SIGNATURE: _____ TITLE: _____

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

OWAIHAN M. JONES,

Plaintiff,

Civil Action No. 7:14-cv-00416

v. STATEMENT OF ASSETS

THE SUPREME COURT OF VIRGINIA, et al.,

Defendant(s).

I, _____, declare that I am the petitioner in the above-styled proceeding; that in support of my request to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty, I am unable to pay the costs of said proceeding, or give security therefor; that I believe I am entitled to relief.

In support of my in forma pauperis application, I answer the following questions:

1. Are you presently employed? _____ Yes _____ No

If yes, what is your monthly income? _____

If no, state the date of your last employment. _____

2. Have you received any money in the last twelve months from the following sources?

Business, Profession, Self-Employment: _____ Yes _____ No

Rent Payments, Interest or Dividends: _____ Yes _____ No

Pensions, Annuities or Life Insurance: _____ Yes _____ No

Gifts or Inheritances: _____ Yes _____ No

Any Other Sources: _____ Yes _____ No

If the answer to any of the above is Yes, please state the source and amount of each received during the past year.

3. Do you own any cash, or have any money on hand - Include any funds held in Prison Accounts.

_____ Yes _____ No If Yes, State the Value _____

4. Do you own any real estate, stocks, bond, notes, automobiles or other valuable property - (excluding clothing and ordinary household furnishings)?

_____ Yes _____ No If Yes, State the Value _____

5. List the persons who depend upon you for support. State your relationship to same and indicate how much you contribute toward their support.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: _____ SIGNED: _____

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

OWAIHAN M. JONES,
Plaintiff,

Civil Action No. 7:14-cv-00416

v.

VERIFIED STATEMENT

THE SUPREME COURT OF VIRGINIA, et al.,
Defendant(s).

I have been advised of the requirements regarding exhaustion of administrative remedies as outlined in 42 U.S.C. 1997e and now submit this verified statement.

(You MUST Choose only one)

_____ Prior to filing my civil rights action, I exhausted my administrative remedies as to each of the claims raised in my complaint by appealing my claims to the highest available level of the administrative remedies procedures. ***Copies of the record of the proceedings are attached to this statement.***

_____ Prior to filing my civil rights action, I attempted to exhaust my administrative remedies but my grievance was rejected as untimely. I have appealed that determination to the highest level available before filing this action. ***I have attached documentation verifying my attempts to exhaust administrative remedies.***

_____ There are no administrative remedies available to me at this time, either because the issue I raise is nongrievable, or because there is no grievance procedure at the correctional facility at which I am confined. I have attached documentation verifying my attempts to exhaust administrative remedies.

_____ This cause of action arose at _____, and I am now being housed at another facility, _____. Therefore, I do not believe I have administrative remedies available at this time.

I affirm that I am the plaintiff in this action and I know the content of the above statement; that it is true of my own knowledge, except as to those matters that are stated in it to be based on my own information and belief; and to those matters, I also believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.

DATE

SIGNATURE OF AFFIANT